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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,136	01/03/2002	Radhika Aggarwal	RSW920010111US1	2414

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IBM Corporation
T81/062
PO Box 12195
Research Triangle Park, NC 27709

EXAMINER

PITARO, RYAN F

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/041,136

Applicant(s)

AGGARWAL ET AL.

Examiner

Ryan F. Pitaro

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-13 have been examined.

Response to Amendment

2. Claims 1-13 are pending. This communication is responsive to Amendment A filed 1/6/2005. This action is non-final.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-9,11-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A menu emulation method is not statutory for at least the reason that is not tangibly embodied in a manner so as to be executable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Richard ("Richard", US 6,954,903).

As per claim 1, Richard teaches a menu emulation method comprising: encoding a form-submit element with a menu-item description and an associated graphical icon denoting a selectable menu (Column 3 lines 41-48); disposing said encoded form-submit element in network distributable markup and distributing said markup to a content browser (Column 3 lines 41-48); and, responsive to a selection of one of said menu-item description and said graphical icon, further distributing over said network to said content browser a graphical menu-structure encoded in at least one additional form-submit element (Column 3 lines 48-56).

As per claim 2, which is dependent on claim 1, Richard teaches a menu emulation method, wherein said encoding step comprises: embedding in a markup representation of said form-submit element, a network reference to a server configured to produce enhanced graphical menu images, said network reference comprising a textual menu-item description and a menu type (Column 4 lines 64-67).

As per claim 3, which is dependent on claim 1, Richard teaches a menu emulation method, wherein said disposing step comprises: embedding said encoded form-submit element in network distributable markup defining a table cell in a table (Column 4 lines 19-28); formatting said table cell with a background color matching the background colors of other table cells in said table (Column 8 lines 47-52); and,

distributing said markup, upon request, to a content browser (Column 7 lines 66-67, Column lines 1-5).

As per claim 4, which is dependent on claim 3, Richard teaches a method, wherein said step of further distributing a graphical menu-structure comprises: responsive to a selection of said encoded form-submit element embedded in said table cell (Column 3 lines 49-56), assembling a graphical menu-structure encoded in at least one additional form-submit element (Column 3 lines 49-56); replacing said encoded form-submit element embedded in said table cell with said graphical menu-structure; and, formatting said table cell with a background color which differs from the background colors of other table cells in said table (Column 5 lines 53-62).

As per claim 5, which is dependent on claim 1, Richard teaches a method, wherein said disposing step comprises: embedding said encoded form-submit element in network distributable markup defining a table cell in a table row in a table (Column 8 lines 41-52); further embedding other encoded form-submit elements in other table cells in said table row (Column 8 lines 41-52); and, formatting each said table cell with a first background color (Column 8 lines 41-52).

As per claim 6, which is dependent on claim 1, Richard teaches a method wherein said further distributing step comprises: detecting a selection of one of said encoded form-submit elements in said row (Column 3 lines 49-56, Column 8 lines 41-52); responsive to said detection, assembling a graphical menu-structure encoded in at least one additional form-submit element (Column 3 lines 49-56); replacing said one of said encoded form-submit elements with said graphical menu-structure (Column 3 lines

49-56); and, formatting a table cell containing said graphical menu-structure with a background color which differs from the background colors of said other table cells in said table row (Column 5 lines 53-62).

As per claim 7, which is dependent on claim 4, Richard teaches a method wherein said assembling step comprises generating a graphical display of a menu-structure, said display comprising at least one of a textual menu action, a graphically selectable menu action, and a nested menu structure (Column 3 lines 49-56).

As per claim 8, which is dependent on claim 6, Richard teaches a method further comprising: preserving state information for each encoded form-submit element; and, upon detecting a selection of one of said encoded form-submit elements, identifying graphical menu-structures in said markup from said state information, and removing said graphical menu-structures from said markup except for a graphical menu-structure assembled for said selected encoded form-submit element (Column 3 lines 49-56).

As per independent claim 9, Richard teaches a menu emulation method comprising: serving markup to a plurality of content browsers, said markup comprising at least one form-based input element encapsulating a reference to a composite image of menu text and a graphical icon, said icon denoting a selectable menu (Column 4 lines 19-29); receiving an indication from at least one of said content browsers that said form-based input element has been selected (Column 3 lines 49-56); and, responsive to said receipt of said indication, further serving to said at least content browser a graphical image of a menu structure, said graphical image comprising at least one form-based input element encapsulating a reference to a composite image of menu text and a

graphical icon, said icon denoting at least one of a menu action and a selectable menu (Column 3 lines 49-56).

Claim 10 is similar in scope to that of claim 9 and is therefore rejected under similar rationale.

As per independent claim 11, Richard teaches a network distributable emulated menu comprising: a plurality of composite images, each said image comprising menu text and a graphical icon, said icon denoting a selectable menu (Column 3 lines 41-48); a plurality of selectable form-based input elements, each said element encapsulating one of said composite images (Column 8 lines 47-52); and, a graphical image of a menu structure, said graphical image comprising at least one form-based input element encapsulating a reference to a composite image of menu text and a graphical icon, said icon denoting at least one of a menu action and a selectable menu (Column 5 lines 43-52).

As per claim 12, which is dependent on claim 11, Richard teaches a menu, further comprising a plurality of table cells, each cell containing one of said selectable form-based input elements (Column 8 lines 1-5).

As per claim 13, which is dependent on claim 13, Richard teaches a menu, wherein said menu structure comprises at least one of a textual menu action, a graphically selectable menu action, and a nested menu structure (Column 3 lines 49-56).

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan F. Pitaro whose telephone number is 571-272-4071. The examiner can normally be reached on 7:00am - 4:30pm M-Th, and alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan Pitaro
Art Unit 2174
Patent Examiner

RFP


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